

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER AMENDING CERTAIN	§
RULES AND REQUIREMENTS	§
PERTAINING TO LAWYER	§
BANK ACCOUNTS	§

Before STEELE, Chief Justice, HOLLAND, BERGER, JACOBS, and RIDGELY, Justices, constituting the Court *en Banc*.

ORDER

This 25<sup>th</sup> day of April, 2012, it appears to the Court that it is desirable to amend certain rules and requirements pertaining to lawyer bank accounts.

NOW, THEREFORE, IT IS ORDERED that the following changes shall become effective immediately:

(1) Rule 1.15(d) of the Delaware Lawyers' Rules of Professional Conduct ("DLRPC") is hereby amended by redesignating section (9) as section (12) and section (10) as section (13) and adding a new section (9), section (10), and section (11) as follows: "(9) Copies of retainer and compensation agreements with clients shall be maintained and preserved as required by Rule 1.5. (10) Copies of accountings to clients or third persons showing the disbursement of funds to them or on their behalf shall be maintained and preserved. (11) Copies of records showing disbursements on behalf clients shall be maintained and preserved."

(2) Rule 1.15(d)(12) of the DLRPC, as redesignated herein, is hereby amended by adding “(I) Only a lawyer admitted to practice law in this jurisdiction or a person under the direct supervision of the lawyer shall be an authorized signatory or authorize transfers from a client trust account. (J) Withdrawals from a client trust account shall be made only by check payable to a named payee and not to cash, or by authorized electronic transfer.”

(3) The Official Comments to Rule 1.15 are hereby amended by redesignating comment [7] as comment [9], comment [8] as comment [10], comment [9] as comment [11], comment [10] as comment [12], and comment [11] as comment [13], and adding a new comment [7] and [8] as follows: “[7] Rule 1.15(d)(12)(I) and (J) enumerate minimal accounting controls for client trust accounts. They also enunciate the requirement that only a lawyer admitted to the practice of law in Delaware or a person who is under the direct supervision of the lawyer shall be the authorized signatory or authorize electronic transfers from a client trust account. While it is permissible to grant limited nonlawyer access to a client trust account, such access should be limited and closely monitored by the lawyer. The lawyer has a non-delegable duty to protect and preserve the funds in a client trust account and can be disciplined for failure to supervise subordinates who misappropriate client funds. See, Rules 5.1 and 5.3 of the Delaware Lawyers Rules of Professional Conduct. [8] Authorized electronic transfers

shall be limited to (1) money required for payment to a client or third person on behalf of a client; (2) expenses properly incurred on behalf of a client, such as filing fees or payment to third persons for services rendered in connection with the representation; (3) money transferred to the lawyer for fees that are earned in connection with the representation and are not in dispute; or (4) money transferred from one client trust account to another client trust account.”

(4) Rule 1.17 of the DLRPC is hereby amended by adding subparagraph (e) as follows:

“(e) The seller shall make appropriate arrangements for the maintenance of records specified in Rule 1.15(d).”

(5) The Official Comments to Rule 1.17 are hereby amended by redesignating comments [11], [12], [13], [14], and [15], as comments [12], [13], [14], [15], and [16] respectively and adding a new comment [11] as follows: “[11] Rule 1.17(a)(5) provides for the preservation of a lawyer’s client trust account records in the event of sale of a law practice. Regardless of the arrangements the partners or shareholders make among themselves for maintenance of the client trust records, each partner may be held responsible for ensuring the availability of these records. For the purposes of these Rules, the terms “law firm,” “partner,” and “reasonable” are defined in accordance with Rules 1.0(c), (g) and (h) of the Delaware Lawyers Rules of

Professional Conduct.”

(6) A new Rule 1.17A is hereby added as follows:

**“Rule 1.17A. Dissolution of law firm.**

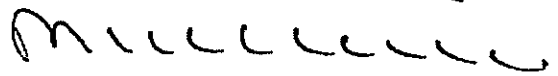
Upon dissolution of a law firm or of any legal professional corporation, the partners shall make reasonable arrangements for the maintenance of the client trust account records specified in Rule 1.15(d).”

(7) Official comment [1] is hereby added to the new Rule 1.17A as follows:

“[1] Rule 1.17A provides for the preservation of a lawyer’s client trust account records in the event of dissolution of a law practice. Regardless of the arrangements the partners or shareholders make among themselves for maintenance of the client trust records, each partner may be held responsible for ensuring the availability of these records. For the purposes of these Rules, the terms “law firm,” “partner,” and “reasonable” are defined in accordance with Rules 1.0(c), (g) and (h) of the Delaware Lawyers Rules of Professional Conduct.”

The Clerk of this Court is directed to transmit forthwith a certified copy of this Order to the clerk of each trial court in each county.

BY THE COURT:

A handwritten signature in black ink, consisting of a series of loops and a final flourish, positioned above a horizontal line.

Chief Justice